



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7

Science and Technology Center
300 Minnesota Avenue
Kansas City, Kansas 66101

MEMORANDUM

SUBJECT: Denial of inspection access at Nebraska Railcar Cleaning Services - NEX000511154 and NEX000511147

FROM: Michael J. Martin, Environmental Scientist *Michael J. Martin*
ENST/EFCB

THRU: Jeff Field, Chief *Jeff Field*
ENST/EFCB

TO: David A. Hoefer, Acting Chief
AWMD/WEMM

On April 19, 2016, I attempted to perform a Resource Conservation Recovery Act Compliance Evaluation Inspection at Nebraska Railcar Cleaning Services located at 115/120 Hickory Street, Omaha, Nebraska, 68108 (contiguous property/NEX000511154) and 280 Pierce Street, Omaha, Nebraska, 68108 (non-contiguous property/NEX000511147). At 9:05 a.m., I introduced myself to the Front Desk Attendant (via intercom) and explained the purpose of my visit. Ten minutes later, Mr. Steve Braithwaite (President) met with me in the front lobby. Mr. S. Braithwaite stated that he would need to talk to his attorney before allowing me inspection access. Mr. S. Braithwaite asked me if I could wait in the lobby until he spoke with his attorney. I agreed and fifteen minutes later, Mr. S. Braithwaite and Mr. Adam Braithwaite met with me in the front lobby. Mr. S. Braithwaite stated that he would allow me inspection access and directed Mr. A. Braithwaite to be the official facility representative for the inspection. Mr. A. Braithwaite directed me to the conference room, where I met Mr. Dennis Sayles (Sales Department). At 9:45 a.m., I presented Mr. A. Braithwaite and Mr. Sayles with my EPA credentials and explained the purpose and procedures of the inspection. I next presented them with a copy of RCRA Section 3007(a), which provides inspection authority. I explained my need to collect accurate information and presented them with a copy of Title 18 U.S. Code, Sections 1001 and 1002. They were made aware of their confidentiality rights and were informed that a *Confidentiality Notice* would be provided at the end of the inspection to make or not to make any confidentiality claims. Next, I started a preliminary discussion of facility operations, waste generation, and waste management. At 10:15 a.m., Mr. A. Braithwaite stated that he needed to excuse himself and left the conference room. Approximately 30 minutes later, Mr. A. Braithwaite, Mr. S. Braithwaite, and Mr. David Houghton (Attorney) entered the conference room. Mr. Houghton introduced himself to me and he stated that the inspection could not continue. Mr. Houghton stated that due to limited facility staff and a grand jury hearing being conducted, the inspection could possibly be conducted on April 20th or during the week of April 25th. I presented Mr. Houghton with a copy of RCRA Section 3007(a) and explained my inspection authority. I asked Mr. Houghton if he was denying me inspection access. Mr. Houghton stated that he was not denying inspection access, but the inspection could not continue.

I asked Mr. S. Braithwaite if I had access to continue the inspection. At 10:56 a.m., Mr. S. Braithwaite stated "No." At 10:57 a.m., I immediately left the facility. At 11:03 a.m., I contacted Mr. Ed Buckner (EPA Compliance Officer) and informed him that Mr. S. Braithwaite had denied me inspection access.

Prior to the denial of inspection access, Mr. A. Braithwaite stated the following:

1. Five railcars were cleaned in April 2016 and 20 railcars were cleaned in March 2016.
2. Nebraska Railcar Cleaning Services no longer conducts any operations at the 120 Hickory Street site.
3. No railcar cleaning activities are being conducted by Nebraska Railcar Cleaning Services or by UTC Railcar Repair Services LLC - Omaha Shop (NER000510388) at the 120 Hickory Street site.
4. The 50,000-gallon wastewater pit located at the 115 Hickory Street site is in the process of being closed. Sawdust is being added to the wastewater in the pit and the wastewater/sawdust mixture is being disposed in the general trash dumpster. Two dumpster loads of wastewater/sawdust mixture had been generated in the past 2½ weeks and an estimate of four additional dumpster loads to be generated.
5. Any materials (liquid/solid crude oil, corn steep water, fertilizer, denatured alcohol, methanol, food grade commodities, etc.) removed from railcars are mixed with sawdust and disposed in the general trash dumpster. Abe's Trash Service (Omaha, Nebraska) disposes of the general trash.
6. Five thousand gallons of railcar rinse/wash water is generated per month (280 Pierce Street), collected in 275-gallon totes, stored in the Quazet Building (280 Pierce Street), and/or transported to the Wastewater Processing Center (115 Hickory Street). At the 115 Hickory Street site, the rinse/wash water is either emptied into the 50,000-gallon wastewater holding pit or transferred to one of three aboveground storage tanks (two 6,000-gallon tanks and one 12,000-gallon tank).

I asked Mr. A. Braithwaite if the wastewater/sawdust mixture and the railcar rinse/wash water were hazardous waste. Mr. A. Braithwaite stated that he did not know. I asked Mr. A. Braithwaite if the wastewater/sawdust mixture and the railcar rinse/wash water would contain any of the 40 toxicity characteristic constituents (listed in Table 3 of Title 128, Chapter 3 of the Nebraska Hazardous Waste Regulations and listed in Table 1 of 40 CFR 261.24) at or above the regulatory limit. Mr. A. Braithwaite stated that he did not know. I asked Mr. A. Braithwaite if Nebraska Railcar Cleaning Services had conducted a hazardous waste determination on the wastewater/sawdust mixture and on the railcar rinse/wash water. Mr. A. Braithwaite stated that he did not know. I informed Mr. A. Braithwaite that Nebraska Railcar Cleaning Services would need to conduct a hazardous waste determination on the wastewater/sawdust mixture and on the railcar rinse/wash water.